



OREGON DEPARTMENT OF JUSTICE

TO: Senate Judiciary Committee
FROM: Alicia Temple, Legislative Director to Attorney General Rayfield, Oregon DOJ
DATE: 3/18/25
SUBJECT: Concerns about SB 1172

Chair Prozanski and members of the committee,

Thank you for the opportunity to submit testimony on SB 1172. DOJ has concerns about the potential changes to ORS 166.255.

ORS 166.255 was originally created to mirror the federal statute that prohibits firearm possession where there has been a conviction for a “qualifying misdemeanor crime of domestic violence”- and when the Oregon statute was created, we took the same language, including “has as an element the use or threatened use of force.” There are no exceptions or carve outs in the federal law for which crimes do or don’t specifically qualify.

Prior to Oregon having the statute, the US attorney’s office would have to be contacted in order for the violations of the firearm prohibition to be prosecuted, and they often didn’t take cases up- for a variety of reasons including that records were not always clearly established at the state court level at sentencing about notice about firearm prohibitions, or that they weren’t sure if charges qualified. The federal courts had only informal guidelines for what charges they would consider.

In order to create continuity in the process, the Oregon legislature used the same definition of “qualifying misdemeanor” as it refers to the elements of the underlying offense.

In a recent Oregon Supreme court case, *State v. Eggers* (372 Or 789 – 2024) the court said that harassment *can* be a qualifying misdemeanor crime as it relates to the question of “use of physical force” and relied on US Supreme Court interpretation of the federal law.

DOJ is concerned that removing the crime of harassment from the list of qualifying misdemeanors would have a negative impact on survivors of domestic violence. It is not necessary to carve out specific crimes, but instead should continue to rely on the definition existing statute and the definition of “use or threatened use of physical force”.